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No. 581

In the Supreme Court of the United States

OCTOBER TERM, 1942

SOUTHLAND GASOLINE COMPANY, PETITIONER

v.

J. W. BAYLEY ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

BRIEF ON BEHALF OF THE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION, UNITED STATES DEPARTMENT OF LABOR, AS AMICUS CURIAE

INDEX

CITATIONS

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The Solicitor General submits this brief on behalf of the Administrator of the Wage and Hour Division, United States Department of Labor, as *amicus curiae*.

OPINIONS BELOW

The opinion of the District Court sustaining petitioner's motion to dismiss the complaint (R. 22–26) is not officially reported. The opinion of the Circuit Court of Appeals, reversing the decision of the District Court (R. 34–39), is reported in 131 F. (2d) 412.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered November 2, 1942 (R. 39). The petition for writ of certiorari was filed December 10, 1942, and granted January 18, 1943. The jurisdiction of this Court rests on Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

QUESTION PRESENTED

Whether, under Section 13 (b) (1) of the Fair Labor Standards Act of 1938, truck drivers employed by a private carrier were excluded from the overtime provisions of the Act prior to May 1, 1940, the date on which the Interstate Commerce Commission made a finding of need to prescribe regulations of the hours of such drivers.

STATUTES INVOLVED

The pertinent provisions of the Fair Labor Standards Act and the Motor Carrier Act, 1935, are quoted on pages 4–5, *infra*.

STATEMENT

Under Section 204 (a) of the Motor Carrier Act the Interstate Commerce Commission was authorized to prescribe maximum hours for employees of private carriers of property "if need therefor be found." On May 1, 1940, the Commission made a finding that there was need for federal regulation of private carriers to promote safety of operation, both with respect to the hours

of drivers and safety rules and regulations. *Ex Parte No. MC–3,* 23 M. C. C. 1, 42.

On January 2, 1942, respondents filed a complaint against petitioner under Section 16 (b) of the Fair Labor Standards Act. Respondents alleged that while employed by petitioner, a private carrier, and engaged as truck drivers in transporting goods across State lines "in commerce" during the period from October 24, 1938, to October 15, 1940, they had not been paid overtime compensation in accordance with the requirements of Section 7, and further that three of the respondents had not been paid the minimum wage rate provided for in Section 6 (R. 2–20). Petitioner filed a motion to dismiss the complaint in so far as the claims for overtime compensation under Section 7 were concerned, on the ground that the services of the respondents were exempt from Section 7 under the terms of Section 13 (b) (1) of the Act (R. 20–22). Petitioner's motion was granted by the District Court (R. 22–27).

On appeal respondents limited their claims under Section 7 to the period prior to May 1, 1940, the date of the Interstate Commerce Commission finding. The Circuit Court of Appeals reversed the District Court's judgment and held that Section 7 applied, prior to that date, to such employees of private carriers as were here involved (R. 34–39).

ARGUMENT

RESPONDENTS WERE SUBJECT TO THE FAIR LABOR STANDARDS ACT PRIOR TO THE MAY 1, 1940, FINDING OF THE INTERSTATE COMMERCE COMMISSION

The applicability of the Section 13 (b) (1) exemption depends on a proper interpretation of certain interrelated provisions of the Fair Labor Standards Act and the Motor Carrier Act.

Section 13 (b) (1) of the Fair Labor Standards Act provides that:

> The provisions of section 7 shall not apply with respect to (1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935.

The pertinent portions of Section 204 (a) of the Motor Carrier Act[1] provide that "it shall be the duty of the Interstate Commerce Commission—

> (1) To regulate *common carriers* by motor vehicle as provided in this part, and to that end the Commission may establish reasonable requirements with respect to continuous and adequate service, transportation of baggage and express, uniform systems of accounts, records, and reports, preservation of records, qualifications and maximum hours of service of employees, and safety of operation and equipment.

[1] Act of Aug. 9, 1935, c. 498, 49 Stat. 543, 49 U. S. C., sec. 301.

(2) To regulate *contract carriers* by motor vehicle as provided in this part, and to that end the Commission may establish reasonable requirements with respect to uniform systems of accounts, records, and reports, preservation of records, qualifications and maximum hours of service of employees, and safety of operation and equipment.

(3) To establish for *private carriers* of property by motor vehicle, *if need therefor is found,* reasonable requirements to promote safety of operation, and to that end prescribe qualifications and maximum hours of service of employees, and standards of equipment. [Italics supplied.]

Concededly petitioner is neither a "common carrier by motor vehicle" as that term is defined in section 203 (a) (14) of the Motor Carrier Act, nor a "contract carrier by motor vehicle" as defined in section 203 (a) (15), but is rather, a "private carrier of property by motor vehicle."[2] (Petition for Writ of Certiorari, pp. 2, 7.)

As indicated by the italicized words in the above quotation, there is a distinct contrast between the wording of paragraphs (1) and (2) of

[2] Section 203 (a) (17) defines "private carrier" as follows: "any person not included in the terms 'common carrier by motor vehicle' or 'contract carrier by motor vehicle,' who or which transports in interstate or foreign commerce by motor vehicle property of which such person is the owner, lessee, or bailee, when such transportation is for the purpose of sale, lease, rent, or bailment, or in furtherance of any commercial enterprise."

section 204 (a) and the wording of paragraph (3). In the former sections the power to prescribe maximum hours and other safety regulations is unconditionally conferred. In the latter, on the other hand, as the Interstate Commerce Commission itself has recognized, "the specific provision of section 204 (a) (3) requires a finding that there is need for such regulations as we may prescribe." *Ex Parte No. MC–3*, 23 M. C. C. 1, 12. This difference in statutory language was not without reason, as is clearly revealed by the legislative history of the Motor Carrier Act. This shows that in 1935 Congress refrained from granting the Interstate Commerce Commission an unqualified power to regulate employees of private carriers because there was insufficient information available to demonstrate the need for such special regulation in the interest of safety of operation.[1]

There was no provision for the regulation of private carriers in the bills recommended by the Interstate Commerce Commission (S. Doc. 152, 73d Cong., 2d sess., 1934, appx. G, p. 350; H. Doc. 89, 74th Cong., 1st sess., 1935, appx. VII, p. 201). The only provision recommended by the Commission relating to private carriers was the general investigatory provision later enacted into law as

[1] In its reports to Congress, the Commission pointed out that the bills it recommended "propose comprehensive regulation of the common carrier, a much less comprehensive type of regulation of the contract carrier, *and no regulation of the private carrier*." S. Doc. 152, *supra*, pp. 45–53. [Italics supplied.] Cf. H. Doc. 89, *supra*, p. 217.

Section 225.[1] Likewise the bills, as originally introduced in the 74th Congress, contained no provision for the regulation of private carriers (S. 1629, H. R. 5262, H. R. 6016, 74th Cong., 1st sess. 1935). Section 204(a)(3) first made its appearance in the bill which was reported from the Senate Committee in April 1935. The Committee Report drew specific attention to the limited and conditional nature of the provision relating to private carriers. The Report stated that "no regulation is proposed for private carriers except that an amendment adopted in committee authorizes the Commission to regulate the 'qualifications and maximum hours of service of employees and safety of operation and equipment' of private carriers of property by motor vehicle *in the event that the Commission determines there is need for such regulation.*" S. Rept. 482, p. 1, 74th Cong., 1st sess., 1935. [Italics supplied.] Senator Wheeler, sponsor of the bill and chairman of the committee, when explaining the terms of the act on the floor of the Senate, emphasized

[1] Section 225 provides: "The Commission is hereby authorized to investigate and report on the need for Federal regulation of the sizes and weight of motor vehicles and combinations of motor vehicles and of the qualifications and maximum hours of service of employees of all motor carriers and private carriers of property by motor vehicle; and in such investigation the Commission shall avail itself of the assistance of all departments or bureaus of the Government and of any organization of motor carriers having special knowledge of any such matter."

the fact that such regulation of private carriers "is conditioned upon a finding, after investigation, of need therefor" (79 Cong. Rec. at 5651).[5]

Section 13 (b) (1) of the Fair Labor Standards Act thereafter enacted in 1938 exempts from Section 7 of that Act employees with respect to whom "the Interstate Commerce Commission has power" to establish maximum hours under the Motor Carriers Act. As we have shown, the Interstate Commerce Commission cannot prescribe the hours of employees of private carriers unless "need therefor is found." Since it cannot, it has no actual "power" to do so until the necessary finding is made. If a body is authorized to undertake a certain activity only if a specified condition is met, the power to act may be said not to exist until the condition has been fulfilled. This Court has stated that a jurisdictional finding "is essential to the existence of authority" (*United States* v. *Balti-*

[5] The Committee Report noted that "the most important difficulty in the way of legislation has been the absence of comprehensive data concerning the industry and the lack of specific information with respect to the details of regulation required in the public interest." S. Rept. 482, 74th Cong., 1st sess., 1935, p. 2. It was pointed out that there had been two recent investigations and reports by the Interstate Commerce Commission and the Federal Coordinator of Transportation, which enabled the formulation of legislation (*ibid.*). It is noteworthy that the investigations and reports referred to concerned primarily the need for regulation of common and contract carriers. There was virtually no evidence indicating what, if any, regulation for private carriers was needed (S. Doc. 152; H. Doc. 89, *supra*).

more & O. R. Co., 293 U. S. 454, 463) and "goes to the existence of the power" (*Mahler* v. *Eby*, 264 U. S. 32, 45). See also *Atchison, Topeka & Santa Fe Ry.* v. *United States*, 295 U. S. 193, 202.

We do not deny that the word "power" is susceptible of the broader interpretation urged by petitioner. As a matter of bare language it would not be inaccurate to assert that the Commission has "power" over the hours of employees of private carriers, even though such power may be exercised only under certain prescribed conditions. But, of course, especially when the meaning is ambiguous, the Court should interpret the provision in a manner consistent with the purposes Congress intended to achieve, and not so as to produce "absurd results," or a result "plainly at variance with the policy of the legislation as a whole." *United States* v. *American Trucking Associations, Inc.*, 310 U. S. 534, 543. Application of these principles, we believe, demonstrates that the decision below is correct.

The exemption in Section 13 (b) (1) was adopted not for the purpose of freeing the hours of these employees from regulation otherwise clearly applicable under the Fair Labor Standards Act, but simply to avoid overlapping or conflicting regulation by different Government agencies. It is plain from the legislative debates that, while Congress was anxious to avoid simultaneous regu-

lation by two Government agencies, it was also very much concerned with insuring federal regulation of the hours of truck drivers. When an earlier amendment excepting employees of common carriers "subject to" the Motor Carrier Act was proposed,* the chairman of the Senate Committee, in recommending the adoption of the exemptive provision, explained that "It was the policy of the committee, in cases where regulation of hours and wages are given to other governmental agencies, to write the bill in such way as not to conflict with such regulation." 81 Cong. Rec. 7875 (1937). This was the only reason suggested for such an exemption, and when it was suggested, care was taken to emphasize that "the committee were of the opinion * * * that it was exceedingly important that the long hours of truck drivers should be regulated" by some Government agency (*ibid.*). The chairman of the committee supported the amendment to the committee's bill proposed on the floor on the representation that the Interstate Commerce Commission had actually exercised its power to fix maxi-

*81 Cong. Rec. 7875 (1937). The phrase "subject to * * * the Motor Carrier Act" in this predecessor to Section 13 (b) (1) would appear to be at least as broad as the language finally adopted. The present language of the exemption first appeared in the House Committee Print of December 14, 1937, but nothing occurring subsequent to that time throws any light upon the intention of Congress on the present problem.

mum hours for truck drivers after the conclusion of the committee hearing (*ibid.*).[7]

The interpretation adopted by the court below gives effect to this dual purpose of Congress. It precludes overlapping or conflicting regulation, and at the same time provides assurance that the hours of such employees will be regulated. No conflicting regulation can result because, as soon as the Interstate Commerce Commission announces its finding of need and thereby indicates its intention to prescribe regulations, the Fair Labor Standards Act automatically becomes inoperative as to such employees and there is substantial assurance of continuous regulation of their hours because the Interstate Commission is under a duty to prescribe regulations after it has made the finding of need.

Moreover, Section 204 (a) (3) of the Motor Carrier Act was not focussed upon the regulation of hours, as such. It authorized the Interstate Commerce Commission to establish "reasonable requirements to promote safety of operation," if it found need "therefor," and it was only to that end

[7] Although this debate took place on July 30, 1937, the Interstate Commerce Commission did not in fact fix maximum hours for the drivers of common and contract carriers until December 1937. *Ex parte No. MC-2*, 3 M. C. C. 665. The effective date of such regulations was then postponed from time to time so that they did not become effective for common and contract carriers of passengers until October 1, 1938, 6 M. C. C. 557; 11 M. C. C. 203, and for such carriers of property not until March 1, 1939, 11 M. C. C. 203.

that it was permitted to prescribe "qualifications and maximum hours of service of employees, and standards of equipment." Thus, under the Motor Carrier Act, the regulation of hours was to be only one aspect of a comprehensive system of regulation of private carriers, all with a view to promoting "safety of operation"; and that such regulation was to be adopted only if the Interstate Commerce Commission should find that it was necessary for reasons of safety. The Fair Labor Standards Act, on the other hand, applies to industry generally, and the regulation of hours is not a part of a larger pattern of regulation of the details of the employer's business with a view to achieving safety. Accordingly, the Fair Labor Standards Act was intended to have universal application except to the extent that hours were regulated under and integrated with the comprehensive scheme for promoting safety of operation under the Motor Carrier Act. But until the Interstate Commerce Commission had found the need for such regulation, there is no reason to believe that Congress intended to exclude employees of private carriers from the general benefits of the Fair Labor Standards Act.

The construction for which petitioner contends would defeat the basic purpose of the legislation as a whole and would leave wholly unregulated for indefinite periods the hours of a class of employees as to whom Congress has indicated

particular solicitude. The decision of the Fourth Circuit in the case of *Richardson* v. *James Gibbons Co.*, 6 Wage Hour Rept. 41, 42 (1942), petition for certiorari granted March 1, 1943, No. 725, criticized the decision of the Court of Appeals in the instant case on the ground that it "gives to coverage under the Fair Labor Standards Act a gap or hiatus in time, a kind of period of suspended animation to this same status of coverage." But it is rather the decision in the *Richardson* case which creates a really serious "gap or hiatus," leaving an important class of employees in interstate commerce indefinitely "without the protection of either Act" and "excepted from any regulation whatsoever." Cf. decision below, 131 F. (2d) 412, 414 (R. 38).* Certainly there is much greater assurance of continuous regulation if the Fair Labor Standards Act is construed to be applicable at least until the Commission makes a finding of need than if the exemption is construed unconditionally.

* The Administrator's present interpretation does leave open the possibility of a less serious "gap" in regulation, that is, the period between the Commission's finding of need and the effective date of regulations issued pursuant to the finding. For example, in the instant case, the Commission's regulations were not made effective until October 15, 1940, or five and a half months after the finding of need to regulate. The prospect of this "gap" led the Administrator previously to interpret the exemption as inapplicable until the Commission's regulations actually became effective. In-

The court in the *Richardson* case assumed that Congress was convinced the Commission would find it necessary to regulate private carriers and that "any other finding would have been little less than shocking to the American public." 6 Wage Hour Rept., at 42. We submit that the opposite conclusion is correct. The words "if need therefor is found" are meaningless if Congress was not in real doubt regarding such need for purposes of the Motor Carrier Act. Under the terms of the statute and within the intent of Congress, the Commission could find that there was a need, in which case it would become empowered to regulate, or it could find that there was no need, in

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terpretative Bulletin No. 9, pars. 4 and 5 (c), 1942 Wage Hour Man. 378, 379. In his revision of Interpretative Bulletin No. 9, pars. 4 and 5 (a), issued March 1942, the Administrator announced that "while the matter is not entirely free from doubt," in view of the decisions of several lower courts disagreeing with the previous opinion, the Division would regard such employees as exempt from "the date on which the Commission found that a need exists." 5 Wage Hour Rept. 233.

It might well be concluded, in the light of the purpose of the legislation as a whole, that the Administrator's interpretation prior to March 1942 was correct. Some of the considerations which have led this Court to hold that State remedial legislation, not in conflict with Federal policy, remains effective despite Federal legislation until active assumption of jurisdiction by the Federal agency, lend support to this position. Cf. *Maurer* v. *Hamilton*, 309 U. S. 598; *Terminal R. R. Assn.* v. *Brotherhood of R. R. Trainmen*, No. 218 this Term, decided January 18, 1943.

which case it would be without power to regulate. The fact that the Commission made no finding on the subject for almost five years after the enactment of the Motor Carrier Act, and to date has made no final determination whether there is need to prescribe regulations for such employees, other than drivers (*Ex Parte No. MC-3*, 23 M. C. C. 1, 44; *Ex Parte No. MC-2*, 28 M. C. C. 125, 139), would seem to indicate that the need for such regulations under the Motor Carrier Act has not been so obvious.*

The decision below is in accord with the construction announced by the Administrator of the Wage and Hour Division in his interpretative bulletin on Section 13 (b) (1). (Interpretative

* The last cited opinion of the Commission, dated March 15, 1941, stated that "a further hearing will be held to determine what regulations, *if any*, should be prescribed for those employees, *other than drivers*, whom we have found subject to our jurisdiction" (28 M. C. C. 125, 139). [Italics supplied.] Although some further hearings were held on the subject in May 1941, the Commission has announced no further decision regarding the need for such regulations. The real possibility that the hours of these employees will remain unregulated indefinitely under the construction adopted by the Fourth Circuit and urged here by petitioner, is thus apparent. Unless the overtime provisions of the Fair Labor Standards Act apply to such employees of private carriers, their hours have been, and are still, wholly unregulated, although the hours of virtually all other employees engaged in interstate commerce or production of goods for interstate commerce have been regulated for more than four years now.

Bulletin No. 9, par. 5.)[10] The Administrator, in the bulletin as originally issued in March 1939 and consistently thereafter, took the position that "at least * * * until an order is issued by the Commission finding the need for regulation, * * * employees of private carriers should be considered as not within the exemption provided by Section 13 (b) (1)." 1940 Wage Hour Man., par. 5, pp. 169–170; 1941 Wage Hour Man., par. 5, p. 294; 1942 Wage Hour Man., par. 5, p. 379. This interpretation is, of course, entitled to "great weight." *United States* v. *American Trucking Assns.*, 310 U. S. 534, 549; *Overnight Motor Co.* v. *Missel*, 316 U. S. 572, 580–581, n. 17.

Finally, the decision of the court below is sustained by the salutary principles of statutory construction requiring liberal interpretation of remedial legislation and strict limitation of exemptions. The Fair Labor Standards Act is a remedial statute of general application. Its purpose is to establish basic wage and hour standards "for health, efficiency, and general well-being of workers" engaged in interstate commerce or in the production of goods for interstate commerce, Section 2 (a); *United States* v. *Darby*, 312 U. S. 100, 109. Being

[10] The interpretative bulletin was originally issued in March 1939 and was amended several times, primarily to indicate the effect of regulations issued by the Interstate Commerce Commission.

"remedial legislation," the Act "should therefore be given a liberal interpretation; but for the same reason exemptions from its sweep should be narrowed and limited to effect the remedy intended." *Piedmont & Northern Ry.* v. *Interstate Commerce Comm.*, 286 U. S. 299, 311–312; *McDonald* v. *Thompson*, 305 U. S. 263, 266; *Spokane & Inland R. R. Co.* v. *United States*, 241 U. S. 344, 350.[11] The decision of the court below gives effect to these sound rules of statutory construction; the contention of petitioners ignores these principles, with the anomalous result that two statutes, each designed to regulate hours of employees, when construed together free them indefinitely from any regulation.

CONCLUSION

Since the interpretation of the court below is not inconsistent with the literal words of the statutes involved, and since it gives effect both to the purpose of the exemption and to the policy of the legislation as a whole, it is respectfully submitted that the de-

[11] For decisions of the Circuit Courts of Appeals applying these principles of statutory construction to the Fair Labor Standards Act, see *Bowie* v. *Gonzalez*, 117 F. (2d) 11, 16 (C. C. A. 1); *Fleming* v. *Palmer*, 123 F. (2d) 749, 762 (C. C. A. 1), certiorari denied, 316 U. S. 662; *Fleming* v. *Hawkeye Pearl Button Co.*, 113 F. (2d) 52, 56 (C. C. A. 8); *Consolidated Timber Co.* v. *Womack*, 132 F. (2d) 101, 106 (C. C. A. 9); *Fleming* v. *A. B. Kirschbaum Co.*, 124 F. (2d) 567, 572 (C. C. A. 3) aff'd 316 U. S 517.

cision of the Circuit Court of Appeals should be affirmed.

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P. 5

SUPREME COURT OF THE UNITED STATES.

Nos. 581 and 725.—October Term, 1942.

Southland Gasoline Company, Petitioner, vs. J. W. Bayley, Henry V. Bloom, G. C. Kendall, et al.	On Writ of Certiorari to the United States Circuit Court of Appeals for the Eighth Circuit.
Wilson W. Richardson, Petitioner, vs. The James Gibbons Company.	On Writ of Certiorari to the United States Circuit Court of Appeals for the Fourth Circuit.

[May 3, 1943.]

Mr. Justice Reed delivered the opinion of the Court.

By writs of certiorari these two cases were brought here to resolve the conflict between them over the proper interpretation of section 13(b)(1) of the Fair Labor Standards Act of 1938.[1]

Section 7 of the Fair Labor Standards Act relates to the maximum number of hours per week an employer may employ an employee who is engaged in commerce or in the production of goods for commerce.[2] The scope of the exemption from the maximum hour standards granted by section 13(b)(1) in turn de-

[1] 52 Stat. 1060, 1068, § 13(b):

"The provisions of section 7 shall not apply with respect to (1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or (2) any employee of an employer subject to the provisions of Part I of the Interstate Commerce Act."

[2] The pertinent provisions of section 7 are as follows:

"No employer shall, except as otherwise provided in this section, employ any of his employees who is engaged in commerce or in the production of goods for commerce—

"(1) for a workweek longer than forty-four hours during the first year from the effective date of this section,

"(2) for a workweek longer than forty-two hours during the second year from such date, or

"(3) for a workweek longer than forty hours after the expiration of the second year from such date,

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed." 52 Stat. 1063.

pends upon the interpretation to be given section 204(a) of the Motor Carrier Act. The portions of that section which are important here are set out below.[3]

These cases turn upon the interpretation to be given the exemption, by section 13(b)(1) of the Fair Labor Standards Act, of employees "with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935." In the *Southland* case, the Circuit Court of Appeals for the Eighth Circuit construed this to exempt employees of private carriers of property from the requirements of the Fair Labor Standards Act only after the Interstate Commerce Commission has found need to establish maximum hours for such employees under the authority of section 204(a)(3) of the Motor Carrier Act. *Bayley* v. *Southland Gasoline Co.*, 131 F. 2d 412. The Fourth Circuit in the *Gibbons Company* case was of the opinion that "power" in section 13(b) meant the existence of the power and not its actual exercise. 132 F. 2d 627; cf. *Plunkett* v. *Abraham Bros. Packing Co.*, 129 F. 2d 419, 421, C. C. A. 6.

The employers in both cases are concededly private carriers of property, engaged in interstate commerce. All employees are subject to regulation to promote safety of operation under section 204(a)(3). In both cases the employees seek recovery solely for the failure of their employers to pay them the time and a half for overtime as required by section 7 of the Fair Labor Standards Act. There is no claim for unpaid overtime compensation after May 4, 1940, the date that the Interstate Commerce Commission first found need to establish reasonable requirements

[3] 49 Stat. 543, 49 U. S. C. § 301:

"Sec. 204. (a) It shall be the duty of the Commission—

"(1) To regulate common carriers by motor vehicle as provided in this part, and to that end the Commission may establish reasonable requirements with respect to continuous and adequate service, transportation of baggage and express, uniform systems of accounts, records, and reports, preservation of records, qualifications and maximum hours of service of employees, and safety of operation and equipment.

"(2) To regulate contract carriers by motor vehicle as provided in this part, and to that end the Commission may establish reasonable requirements with respect to uniform systems of accounts, records, and reports, preservation of records, qualifications and maximum hours of service of employees, and safety of operation and equipment.

"(3) To establish for private carriers of property by motor vehicle, if need therefor is found, reasonable requirements to promote safety of operation, and to that end prescribe qualifications and maximum hours of service of employees, and standards of equipment.

as to maximum hours to promote safety in the operations of private carriers of property by motor vehicle under section 204(a)(3).

The problem of statutory construction posed by this conflict of circuits should not be solved simply by a literal reading of the exemption section of the Fair Labor Standards Act and the delegation of power section of the Motor Carriers Act. Both sections are parts of important general statutes and their particular language should be construed in the light of the purposes which led to the enactment of the entire legislation. *United States* v. *American Trucking Ass'ns*, 310 U. S. 534, 542. The words of the sections under consideration are, however, basic data from which to draw the sections' meaning. Section 13(b)(1) exempts from the maximum hour limitation of the Fair Labor Standards Act those employees over whom the Interstate Commerce Commission "has power to" prescribe maximum hours of service. Section 204(a)(3) certainly gives "power to" the Commission to establish maximum hours for the employees here involved. There is a limitation on the authority delegated, urged here by the employees as a condition precedent to the existence of the power. This is that the Commission may establish maximum hours only "if need therefor is found." Since the employees seek unpaid overtime compensation only for the period prior to a finding of need by the Commission, the employees argue that no "power" existed in the Commission during the time for which compensation is claimed. We conclude to the contrary. The power to fix maximum hours has existed in the Commission since the enactment of the Motor Carrier Act in 1935. Before that power could be used, it was necessary to make a finding of need. Such a necessity, however, did not affect the existence of the power. Legislation frequently delegates power subject to a finding of need or necessity for its exercise.[4]

The general purposes of the Fair Labor Standards Act and of the Motor Carrier Act do not point to a different conclusion. With the adoption of the Motor Carrier Act, the national government undertook the regulation of interstate motor transpor-

[4] Cf. Federal Food, Drug and Cosmetic Act, § 401, 52 Stat. 1046, 21 U. S. C. 341; Emergency Price Control Act of 1942, § 2, 56 Stat. 24; Fair Labor Standards Act, § 8d, 52 Stat. 1064, 29 U. S. C. 208; Public Utility Holding Company Act of 1935, § 11, 49 Stat. 820, 15 U. S. C. 79(k); Tariff Act of 1930, § 350(a), 48 Stat. 943, 19 U. S. C. 1351; Alien Enemy Act, R. S. 4067, 50 U. S. C. § 21.

tation to secure the benefits of an efficient system. Safety through the establishment of maximum hours for drivers was an important consideration. *Maurer* v. *Hamilton*, 309 U. S. 598, 604, 607. When Congress later came to deal with wages and hours, its primary concern was that persons should not be permitted to take part in interstate commerce while operating with substandard labor conditions. *United States* v. *Darby*, 312 U. S. 100, 115. The Fair Labor Standards Act sought a reduction in hours to spread employment as well as to maintain health. *Overnight Motor Co.* v. *Missel*, 316 U. S. 572, 576, 577. By exempting the drivers of motors from the maximum hour limitations of the Fair Labor Standards Act, Congress evidently relied upon the Motor Carrier provisions to work out satisfactory adjustments for employees charged with the safety of operations in a business requiring fluctuating hours of employment, without the burden of additional pay for overtime.

Not only does the language of section 13(b)(1) indicate this Congressional purpose but what slight evidence there is from the legislative history points to the same conclusion. The amendment was adopted to free operators of motor vehicles from the regulation by two agencies of the hours of drivers. No comment appears as to the desirability of statutory limitation on their hours prior to the establishment of maximum hours by the Commission. 81 Cong. Rec. 7875; 82 Cong. Rec. 1573 *et seq.* No distinction was pointed out between common, contract, and private carriers, although there was a distinction in section 204(a). It would seem that if the point now urged had been in the mind of Congress it would have itself expressed the intention to leave private carriers subject to the Fair Labor Standards Act until the Commission took action.[5] Even under the argument of the employees, those drivers who work for common or contract carriers would not at any time be subject to the maximum hour provision of the Labor Act. Furthermore, it was said on the Senate floor that the amendment as to motor vehicle operators was to give them the exemption from the Fair Labor Standards Act enjoyed by the railway employers under the Hours of Service

[5] An understanding that the Interstate Commerce Commission had already acted upon maximum hours for drivers may have shortened the discussion of the amendment. 81 Cong. Rec. 7875. Subsequent to this discussion and prior to the passage of the Labor Act, the Commission had acted for common and contract carriers. Ex parte MC-2, 3 M. C. C. 665, 690. Private carriers were held to need regulation by the decision of May 1, 1940, Ex parte MC-3, 23 M. C. C. 1.

Acts.[6] These do not provide for overtime pay and like the subsections of section 204 of the Motor Carrier Act are immediately effective to exempt the railroad employees covered by their provisions from the maximum hour provisions of the Fair Labor Standards Act. Cf. note 1. Since the employees of contract and common motor carriers, as well as railway employees, are exempt from the Fair Labor Standards provisions for maximum hours by virtue of the same words which govern private motor carriers' employees, it would require definite evidence of a contrary Congressional purpose toward private carrier employees to lead us to accept the argument advanced here by the employees. No such evidence appears.[*]

No. 581, *Reversed.*
No. 725, *Affirmed.*

Mr. Justice MURPHY took no part in the consideration or decision of this case.

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[6] 81 Cong. Rec. 7875; 34 Stat. 1415, 39 Stat. 721.

[*] District Courts which have interpreted section 13(b)(1) have reached the same conclusion as we do. Faulkner v. Little Rock Furniture Mfg. Co., 32 F. Supp. 590; Bechtel v. Stillwater Milling Co., 33 F. Supp. 1010; Fitzgerald v. Kroger Grocery & Baking Co., 45 F. Supp. 812; Gibson v. Wilson & Co., 2 Federal Carriers Cases ¶ 9604; Derer et al. v. Snow Ice, Inc., 3 Federal Carriers Cases ¶ 80,929. The Wage and Hour Division of the Department of Labor has taken the position that the Fair Labor Standards Act applies to drivers of private carriers until May 1, 1940, the date the Interstate Commerce Commission determined that need existed for their regulation. Interpretative Bull. No. 9, 5 Wage & Hour Rep. 233, 235, March 30, 1942.